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7
8 **BEFORE THE ARIZONA MEDICAL BOARD**

9 In the Matter of:) Investigation Case No. MD-97-0048
10)
10 **HENRY REUSS, M.D.**) **CONSENT AGREEMENT AND**
Holder of License No. 3516) **ORDER FOR LETTER OF**
11 For the Practice of Medicine) **REPRIMAND AND SURRENDER**
In the State of Arizona,) **OF LICENSE**
12)
Respondent.)
13)

14 **CONSENT AGREEMENT**

15 **RECITALS**

16 In the interest of a prompt and judicious settlement of this case, consistent with the public
17 interest, statutory requirements and responsibilities of the Arizona Medical Board ("Board"), and
18 under A.R.S. §§ 32-1401 *et seq.*, and 41-1092.07(F)(5), Henry Reuss, M.D., holder of license number
19 3516 to practice allopathic medicine in the State of Arizona ("Respondent"), and the Board enter into
20 the following Recitals, Findings of Fact, Conclusions of Law and Order ("Consent Agreement") as
21 the final disposition of this matter.

22 1. Respondent has read and understands this Consent Agreement as set forth herein, and
23 has had the opportunity to discuss this Consent Agreement with an attorney. Respondent voluntarily
24 enters into this Consent Agreement for the purpose of avoiding the expense and uncertainty of an
25 administrative hearing.
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1 2. Respondent understands that he has a right to a public administrative hearing
2 concerning each allegation set forth in the above-captioned matter, at which administrative hearing
3 he could present evidence and cross-examine witnesses. By entering into this Consent Agreement,
4 Respondent freely and voluntarily relinquishes all rights to such an administrative hearing, as well
5 as all rights of rehearing, review, reconsideration, appeal, judicial review or any other administrative
6 and/or judicial action, concerning the matters set forth herein.

7 3. Respondent agrees that the Board may adopt this Consent Agreement or any part of this
8 agreement, under A.R.S. § 32-1451(F). Respondent understands that this Consent Agreement or any
9 part of the agreement may be considered in any future disciplinary action against him.

10 4. Respondent understands this Consent Agreement deals with Board Investigations Case
11 No. MD-97-0048 involving allegations of unprofessional conduct against Respondent. The
12 investigation into these allegations against Respondent shall be concluded upon the Board's adoption
13 of this Consent Agreement.

14 5. Respondent understands that this Consent Agreement does not constitute a dismissal
15 or resolution of other matters currently pending before the Board, if any, and does not constitute any
16 waiver, express or implied, of the Board's statutory authority or jurisdiction regarding any other
17 pending or future investigation, action or proceeding. Respondent also understands that acceptance
18 of this Consent Agreement does not preclude any other agency, subdivision or officer of this state
19 from instituting any other civil or criminal proceedings with respect to the conduct that is the subject
20 of this Consent Agreement.

21 6. All admissions made by Respondent in this Consent Agreement are made solely for
22 the final disposition of this matter, and any related administrative proceedings or civil litigation
23 involving the Board and Respondent. Therefore, any admissions made by Respondent in this Consent
24 Agreement are not intended or made for any other use, such as in the context of another regulatory
25 agency proceeding, or civil or criminal proceeding, whether in the State of Arizona or any other state
26

1 or federal court.

2 7. Respondent acknowledges and agrees that, upon signing this Consent Agreement and
3 returning this document to the Board's Executive Director, Respondent may not revoke his acceptance
4 of the Consent Agreement or make any modifications to the document, regardless of whether the
5 Consent Agreement has been issued by the Executive Director. Any modification to this original
6 document is ineffective and void unless mutually approved by the parties in writing.


7 8. Respondent understands that this Consent Agreement shall not become effective unless
8 and until adopted by the Board and signed by its Executive Director or designee.

9 9. Respondent understands and agrees that if the Board does not adopt this Consent
10 Agreement, he will not assert as a defense that the Board's consideration of this Consent Agreement
11 constitutes bias, prejudice, prejudgment or other similar defense.

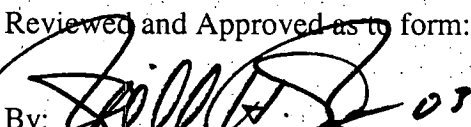
12 10. Respondent understands that this Consent Agreement is a public record that may be
13 publicly disseminated as a formal action of the Board, and shall be reported as required by law to the
14 National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank.

15 11. Respondent understands that any violation of this Consent Agreement constitutes
16 unprofessional conduct under A.R.S. § 32-1401(24)(r)([v]iolating a formal order, probation, consent
17 agreement or stipulation issued or entered into by the board or its executive director under the
18 provisions of this chapter) and shall result in disciplinary action under A.R.S. § 32-1451 *et seq.*

19
20 DATED: 3-7-03


Henry Reuss, M.D.

22 Reviewed and Approved as to form:

23  03-18-2003
24 By: Richard H. Rea, Esq.
25 Attorney for Respondent
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FINDINGS OF FACT

By stipulation of the parties, this Consent Agreement is entered into for final disposition of the matters described herein. Respondent admits to the following Findings of Fact:

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 3516 for the practice of allopathic medicine in the State of Arizona.

3. On January 1, 1997, the Board received a letter from patient D.N. complaining about Dr. Reuss. The Board opened an investigation due to D.N.'s complaint.

4. On January 16, 1997, the Board notified Dr. Reuss of D.N.'s complaint and requested him to provide the Board with a narrative response about the complaint and with D.N.'s treatment records.

5. On January 16, 1997, the Board issued subpoenas to other health care providers for D.N.'s treatment records. Those health care providers complied with the subpoenas.

6. On January 31, 1997, Dr. Reuss provided the Board with his narrative response to D.N.'s complaint.

7. The Board directed its medical consultant to review D.N.'s treatment records and the materials Dr. Reuss provided to the Board. The consultant opined: Dr. Reuss' medical records concerning this patient were inadequate.

8. The Board directed another of its medical consultants to review D.N.'s treatment records and the materials Dr. Reuss provided to the Board. The consultant opined: Dr. Reuss's treatment of D.N.'s condition was poorly documented; and he did not include her vaginitis as a possible differential diagnosis.

9. On November 12, 1997, after reviewing the medical consultants' reports and other

1 information, the Board ordered the investigation continued and directed Board staff to conduct an
2 office survey of Dr. Reuss's office to review his documentation of patient evaluation and treatment.

3 10. On May 11, 1998, the Board issued a subpoena to Dr. Reuss for a listing of specific
4 categories of his patients.

5 11. On May 26, 1998, the Board received the subpoenaed information from Dr. Reuss.
6 From that information, the Board selected ten patients' records to be reviewed and instructed Dr.
7 Reuss to provide those records to the Board. Dr. Reuss provided those records.

8 12. The Board took those ten patient records and forwarded them to another Board
9 medical consultant for his review. The consultant's opinion included: (a) Dr. Reuss failed to
10 document in specificity and detail about patients' medical condition and history; (b) Dr. Reuss failed
11 to document differential diagnoses about patients; (c) Dr. Reuss failed to document that he discussed
12 alternate medical therapies and/or surgical alternatives with patients; (d) Dr. Reuss failed to document
13 that he discussed the benefits and/or risks of proposed surgery with patients; (e) Dr. Reuss failed to
14 document his ultrasound findings for transvaginal ultrasounds.

15 13. On November 11, 2000, the Board forwarded to Dr. Reuss the medical consultant's
16 report of the ten patient records and requested that he respond to the report.

17 14. On January 2, 2001, Dr. Reuss provided to the Board his response to the consultant's
18 report.

19 15. On June 22, 2001, the Board reviewed all the information from the investigation and
20 all materials submitted by Dr. Reuss and ordered that this matter be sent to an administrative hearing.

21 16. Dr. Reuss' biennial renewal packet was due on 04-06-2002. Dr. Reuss elected not to
22 send a completed renewal packet to the Arizona Medical Board.

23 17. The parties waive all further findings of fact.
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CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter and over Respondent as a licensee of the Board, under A.R.S. § 32-1401, *et seq.*

2. The conduct and circumstances described above, except for the conduct described in paragraphs 16 and 17, constitute unprofessional conduct under A.R.S. § 32-1401(24)(e) ([f]ailing or refusing to maintain adequate records on a patient).

ORDER

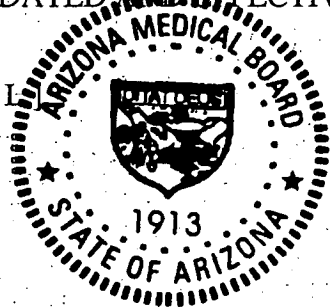
Based upon the above Findings of Fact and Conclusions of Law and under the authority granted to the Board by A.R.S. §§ 41-1092.07(F)(5) and 32-1451(T), it is hereby ordered that:

1. Respondent, holder of License No. 3516 for the practice of allopathic medicine in the State of Arizona, is hereby issued a **LETTER OF REPRIMAND** for his unprofessional conduct described above.

2. License No. 3516, which was issued to Respondent for the practice of allopathic medicine in the State of Arizona, shall be deemed **SURRENDERED**, upon adoption of this Consent Agreement by the Board.

DATED AND EFFECTIVE this 14th day of MAY, 2003.

[SEAL]



ARIZONA MEDICAL BOARD

By *Barry A. Cassidy*
BARRY A. CASSIDY, Ph.D., P.A.-C.
Executive Director

COPY of the foregoing mailed by
U.S. Certified Mail this 14th day of
MAY, 2003 to:

Henry Reuss, M.D.
7331 E. Osborn Drive, Suite 305
Scottsdale, Arizona 85251-6422
Respondent

1 COPY of the foregoing mailed
2 this 14TH day of MAY, 2003, to:

3 Richard H. Rea, Esq.
4 Shughart Thomson & Kilroy/Goodwin Raup, P.C.
5 One Columbus Plaza
6 3636 N. Central Avenue, Ste. 1200
7 Phoenix, Arizona 85012
8 Attorney for Respondent

9 Roberto Pulver
10 Assistant Attorney General
11 1275 W. Washington, CIV/LES
12 Phoenix, Arizona 85007
13 Attorney for the State

14 Brenda A. Ahl